

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 * * *

4 TYREE BEVERLY,

5 Plaintiff,

6 v.

7 OFFICER MENDOZA, *et al.*,

8 Defendants.
9

Case No. 2:23-cv-00722-RFB-BNW

ORDER

10 On October 16, 2023, Plaintiff Tyree Beverly (“Plaintiff”), an inmate at Pioche
11 Conservation Camp, filed a Complaint against several METRTO officers. ECF No. 1. Plaintiff is
12 proceeding pro se and in forma pauperis. ECF Nos 1, 5.

13 The Court screened Plaintiff’s amended complaint and allowed and allowed an excessive
14 force claim to proceed under the Fourteenth Amendment against Defendants Mendoza, Felix,
15 Jimenez, Ableman and Durpe in their individual capacities. ECF No. 5.

16 The Court ordered that service of the summonses and the amended complaint upon
17 Defendants be effected by the United States Marshal (“USM”). ECF No. 5.

18 On November 10, 2023, a completed USM-285 Process Receipt and Return was filed,
19 which indicates that the USM attempted to serve these Defendants but was advised “Unable to
20 serve without a P #.” ECF No. 9.

21 This Court has an obligation to construe, administer and employ the Federal Rules of Civil
22 Procedure in a manner “to secure the just, speedy, and inexpensive determination of every
23 action.” Fed. R. Civ. P. 1 (“Rule 1”). Although the initial disclosure requirements of Rule
24 26(a)(1)(A) do not apply in cases brought by persons in the custody of a state who is without
25 counsel (Fed. R. Civ. P. 26(a)(1)(B)(iv)), the Supreme Court has held, in a pro per prisoner civil
26 rights case, that trial courts have “broad discretion” under Rule 26 to manage discovery “to
27 facilitate [the] prompt and efficient resolution of the lawsuit.” *Crawford-El v. Britton*, 523 U.S.
28 574, 599 (1998).

1 Although an incarcerated IFP pro se plaintiff is entitled to rely on the USM to effect
2 service of process, it is ultimately a plaintiff's responsibility to provide the USM "sufficient
3 identifying information, including a full name and a current address for the unserved defendants,
4 so they can be served." *Thomas v. Ellis*, 2014 WL 116286, at *6 (N.D. Cal. Jan. 13, 2014). At the
5 same time, this Court has an "obligation to assist a pro se incarcerated litigant to obtain discovery
6 ... so that service can be effected." *Carpio v. Luther*, 2009 WL 605300, at *1 (W.D. N.Y. Mar. 9,
7 2009) (citing *Valentin v. Dinkins*, 121 F.3d 72, 75 (2d Cir. 1997)); see also *Billman v. Indiana*
8 *Dep't of Corrections*, 56 F.3d 785, 790 (7th Cir. 1995) ("[B]ecause plaintiff] is a prisoner he may
9 not be in a position to identify the proper defendants, or all of them in his complaint.... We think
10 it is the duty of the district court to assist [the incarcerated pro se litigant], within reason, to make
11 the necessary investigation.").

12 METRO has advised that additional information is required in order to effectuate service.
13 Plaintiff has a right to discovery regarding the full names and "P numbers" of the Defendants.
14 Immediate limited discovery directed to Defendants regarding the full name and "P numbers"
15 appears to be warranted. The Court will provide Defendants an opportunity to be heard upon the
16 propriety of such an order.

17 Therefore, by no later than January 5, 2024, METRO shall file and serve upon Plaintiff
18 either an Objection or a Statement of Non-Opposition to the issuance of an Order directing
19 METRO to (1) determine which officers by the last names of Mendoza, Felix, Jimenez,
20 Ableman and Durpe may have been on duty on October 28, 2022. responding to a situation
21 roughly corresponding to that described Plaintiff's amended complaint and (2) file a notice
22 advising the Court and Plaintiff, by no later than February 5, 2024, as to: (a) what METRO was
23 able to determine, (b) to the extent METRO was able to determine which officers are the named
24 defendants, the names of the Defendants for whom it accepts service and the names of the
25 defendants for whom it does not accept service, and (c) for the Defendants for whom it does not
26 accept service, whether it is willing to file their last known address under seal with the Court so
27 that the USM can attempt service on those Defendants.
28

1 IT IS SO ORDERED.

2 IT IS FURTHER ORDERED that the USM serve this Order on METRO Assistant General
3 Counsel Ruth Miller.

4 DATED: December 5, 2023.

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6 BRENDA WEKSLER
7 UNITED STATES MAGISTRATE JUDGE
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